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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

08/991,281

Applicant(s)

KAWECKI ET AL.

Examiner

SIMON SING

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 1999.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 23-30 is/are allowed.
6) ☒ Claim(s) 1, 2, 4-6, 8-13, 15-17, 19-22, 31-40 and 42-47 is/are rejected.
7) ☒ Claim(s) 3, 7, 14, 18, 41 and 48 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 16 December 1997 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-48 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,298,126. Although the wordings of conflicting claims are not identical, they are not patentably distinct from each other. For example, independent claim 1 of current invention is broader than claim 1 in the Patent, and claim 24 of current invention is the same as claim 13 in the patent.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2.1 Claim 21 recites the limitation "said call" in line 10. There is insufficient antecedent basis for this limitation in the claim, because it recites "a call" in lines 6 and 8. It is unclear which "a call" the "said call" is referred to.

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2.2 Claim 22 recites the limitation "OSPS" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 12, 20, 32, 33, 36, 37, 43 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Weber US 4,191,860.

3.1 Regarding claim 1, Weber discloses a system for connecting callers to called service providers in figure 1, comprising:

a plurality of toll switches (15, 34 and 36) forming a network;

a shared database computer 11 connected to at least one of said toll switches, said shared database computer having a database storing routing plans defining routes connecting said callers to at least one of said service sponsors (column 6, lines 35-53);

said database computer being programmed to return instructions to said at least one of said toll switches in response to a query (common channel

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signaling (CCS) message) from said at least one of said toll switches, said query being generated by said at least one of said toll switches in response to a call from one of said callers to said at least one of said service sponsors, said query indicating initial route information followed by said call before reaching said at least one of said toll switches, said instructions indicating a specific route for said call to be implemented by said at least one of said toll switches in response to said instructions (column 6, line 66 - column 8, line 8);

said initial route information providing an indication of a route followed by said call from said one of said callers to said at least one of said toll switches (column 6, line 66 – column 7, line 14);

said routing plan defining alternative routes from which said specific route is selected by said database computer in response to said routing plan (tables 20 and 21 in figures 2 and 3) and the initial route information (column 8, line 1 – column 9, line 38).

3.2 Regarding claims 12 and 20, Weber discloses a system in figure 1 for connecting callers to called service providers, comprising:

a plurality of toll switches (15, 34 and 36) forming a network;

a shared database computer 11 connected to a originating toll witch 15, said shared database computer having a database storing routing plans defining alternative routes connecting said callers to at least one of said service sponsors (column 6, lines 35-53; column 8, line 1 – column 9, line 38);

each alternative routes being determined based on at least one parameter supplied in a query (common channel signaling (CCS) message) received by the computer 11 from the originating toll switch 15 (column 6, line 1 – column 7, line 20);

said originating switch being programmed to generate said query responsively to a call received by said originating toll switch from one of said callers to said at least one of said service providers (column 6, line 1 - column 7, line 20);

said originating switch being programmed to implement a specific route determined based on said at least one parameter after receiving data from said database computer 11 responsive to said routing plan and said query (column 6, line 66 - column 8, line 8);

said parameter being data identifying a calling party number (call route originated from the calling number, or area code) used by said caller to place said call (column 8, lines 1-13);

3.3 Regarding claim 32. Weber teaches a telecommunications switch 15, comprising:

a communication terminal for communicating with a central database computer (column 7, lines 5-20);

said telecommunications switch being programmed to generate data defining an origin of said call and to transmit said data to said central database computer (column 7, lines 5-20);

said telecommunications switch ,being further programmed to receive routing instructions from said central database computer, responsively to a transmission of said data, and to implement said routing instructions to route said call (column 8, lines 1-56).

3.4 Regarding claim 33, Weber teaches ANI of said call (column 7, lines 5-6).

3.5 Regarding claim 36, Weber teaches a method for controlling a plurality of telecommunications switches, comprising:

receiving, at a database computer connected to at least one of said plurality of telecommunications switches, call-origin-data defining an origination route of a call to said at least one of said plurality of telecommunications switches column 6, line 66 – column 7, line 20);

determining at said database computer a selected route responsively to said condition and said call-origin-data (column 7, line 50 - column 8, line 8);

transmitting in response thereto said selected route back to said telecommunications switch (column 8, lines 1-59);

said step of transmitting being responsive to a database of said database computer defining routes through which said call may be routed to a final termination, said selected route being one of said routes, said selected route being selected from among said routes responsively to a condition satisfiable by said call-origin-data (column 8, lines 1-56).

3.6 Regarding claim 37, Weber teaches ANI of said call (column 7, lines 5-6).

3.7 Regarding claim 43, Weber teaches a method for controlling a telecommunications switch connected to a central database computer, comprising the steps of:

- generating origin data defining an origin of said call;
- transmitting said origin data to said central database computer;
- receiving routing instructions from said central database computer, responsively to a transmission of said origin data, and
- implementing said routing instructions to route said call (column 5, lines 3-33; column 6, line 66 - column 8, line 56).

3.8 Regarding claim 44, Weber teaches a method for controlling a computer for controlling a plurality of telecommunications switches, comprising:

- storing, on said computer, routes through which said call may be routed to a final termination, said selected route being one of said routes, said selected route being selected from among said routes responsively to a condition satisfiable by call-origin-data;

- receiving at said computer said call-origin-data defining an origination route of a call to said at least one of said plurality of telecommunications switches;

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determining a selected route responsively to said condition and said call-origin-data; and transmitting said selected route to said telecommunications switch (column 5, lines 3-33; column 6, line 66 - column 8, line 56).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5, 6, 9, 12, 16, 20, 31, 32, 36 and 43 are rejected under 35 U.S.C. 103(a) over Le US 4,924,510 in view of Neville US 5,588,048.

4.1 Regarding claims 1, 32, 36 and 43, Le discloses a system in figure 1 for connecting callers to called service providers, comprising:

a plurality of toll switches 3 forming a network (column 2, lines 17-19; column 3, lines 23-26);

a shared database computer 5 connected to at least one of said toll switches, said shared database computer having a database storing routing plans defining routes connecting said callers to at least one of said service sponsors (abstract; column 1, lines 20-25; column 3, lines 23-34);

said database computer being programmed to return instructions to said at least one of said toll switches in response to a query (common channel signaling (CCS) message) from said at least one of said toll switches, said query being generated by said at least one of said toll switches in response to a call from one of said callers to said at least one of said service sponsors, said query indicating initial route information followed by said call before reaching said at least one of said toll switches, said instructions indicating a specific route for said call to be implemented by said at least one of said toll switches in response to said instructions (column 1, lines 20-25, 32-36; column 3, lines 23-34);

said initial route information providing an indication of a route followed by said call from said one of said callers to said at least one of said toll switches (column 1, lines 20-25);

said routing plan defining alternative routes from which said specific route is selected by said database computer in response to said routing plan (customer defined route based on time) (column 1, lines 32-36).

Le teaches selecting the specific route in response to said routing plan, but fails to teach that the specific route is also selected in response to the initial route information (where the call comes from, or caller location).

However, Neville teaches that when a 1-800 call is initiated by a caller, the call is routed to a service provider near the caller's location (column 4, lines 41-49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Le reference with the teaching of

Neville, so that the specific route would have been selected in response to the initial route information, because such a modification would have clarify how a 1-800 number was routed.

4.2 Regarding claim 5, Le teaches routing the call to a default route when for invalid caller number (column 1, lines 32-34).

4.3 Regarding claim 6, Le teaches allowing the customer (service provider) to specify a default route and different routes based on time of the call. Le also teaches a call prompter service for prompting a user (column 1, lines 26-30). Therefore, it would have been obvious that the customer is able to specify/modify the routes in his database/profile.

4.4 Regarding claims 9, 16 and 31, the modified Le reference teaches caller telephone number including area code as stated above.

4.5 Regarding claims 12 and 20, Le discloses a system in figure 1 for connecting callers to called service providers, comprising:

- a plurality of toll switches 3 forming a network;

- a shared database computer 5 connected to a originating toll witch 3, said shared database computer having a database storing routing plans defining alternative routes connecting said callers to at least one of said service sponsors (abstract; column 1, lines 20-25; column 3, lines 23-34);

each alternative routes being determined based on at least one parameter supplied in a query (common channel signaling (CCS) message) received by the computer 5 from the originating toll switch 3 (column 1, lines 20-25, 32-36; column 3, lines 23-34);

said originating switch being programmed to generate said query responsively to a call received by said originating toll switch from one of said callers to said at least one of said service providers (column 1, lines 20-25, 32-36; column 3, lines 23-34);

said originating switch being programmed to implement a specific route determined based on said at least one parameter after receiving data from said database computer 11 responsive to said routing plan and said query (column 1, lines 20-25, 32-36; column 3, lines 23-34);

Le teaches selecting the specific route in response to said routing plan, but fails to teach that the specific route is also selected in response to the parameter, i.e. caller location.

However, Neville teaches that when a 1-800 call is initiated by a caller, the call is routed to a service provider near the caller's location (column 4, lines 41-49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Le reference with the teaching of Neville, so that the specific route would have been selected in response to the initial route information, because such a modification would have clarify how a 1-800 number was routed.

5. Claims 2, 13, 34 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber US 4,191,860 in view of Karras et al. US 5,438,570.

Weber teaches a CCS message (which is an initial address message or IAM) including originating calling information, and routing the call by the specific route (first route), but does not explicitly teach that the information includes an indication indicating that the call is operator assisted.

However, Karras teaches that an IAM including information indicating a collect call (which operator assisted call) (column 6, lines 1-11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Weber reference with the teaching of Karras, so that the CCS message would have included information indicating the call was a collect call, because such a modification would have clarify what call information a CCS message could have.

6. Claims 4, 15, 35 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber US 4,191,860 in view of Lev et al. US 5,987,327.

Weber teaches a CCS message (which is an initial address message or IAM) including originating calling information, and routing the call by the specific route (second route), but does not explicitly teach that the information includes an indication indicating that the call is originated from a cellular phone.

However, Lev teaches that an IAM including information indicating a type of call device, i.e. a mobile device or cellular phone (column 5, lines 49-53).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Weber reference with the teaching of Lev, so that the CCS message would have included information indicating the call was originated from a cellular phone collect call, because such a modification would have clarify what call information a CCS message could have included.

7. Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Le US 4,924,510 in view of Neville US 5,588,048 and further in view of Benyacar et al. US 5,003,584.

Le teaches a CCS message (which is an initial address message or IAM) including originating calling information, and routing the call by the specific route (third route), but does teach an operator for obtaining credit information from the caller.

However, Benyacar teaches a 900 number system, in that when caller number (ANI) is not available, the caller is connected to an operator for obtaining the ANI, and the operator also obtain the credit information from the caller (column 6, lines 4-7, 65-68).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Le reference with the teaching of Benyacar, so that the caller information was missing, the caller would

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have been routed to an operator to obtain ANI information and to collect credit information, because such a modification would have enabled the modified system to identify a caller and to make sure that the caller would have been able to pay for a 900 service.

8. Claims 10, 11 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Le US 4,924,510 in view of Neville US 5,588,048 and further in view of Levy et al. US 5,291,550.

Le teaches specifying customer default route and different routes based on time of the call, but fails to teach using a computer to setup/modify/change the customer's routing plan.

However, Levy discloses a system in figures 1 and 2. Levy teaches a routing controller (database computer) 115 for controlling routing calls to agents, and a support computer 105 for formulating routing parameters (column 5, lines 19-25; column 6, lines 8-14).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Le reference with the teaching of Levy, so that the routing plan in the database computer would have been setup/modified by a support computer, because such a modification would have clarified how to setup and modified the routing plan in the database computer.

9. Claims 40 and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber US 4,191,860 in view of Penzias et al. US 5,515,425.

9.1 Regarding claim 40, Weber teaches a routing plan in a database for 1-00 number and toll calls (column 11, lines 9-15), but fails to teach a rate table defining a rate applicable to the call.

However, Penzias discloses a rate database 16 with a database computer 17 in figure 1, and teaches applying one of the rates from the rate database 16 to the call (column 4, lines 20-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Weber reference with the teaching of Penzias, so that the modified system would have included a rate table to apply a rate to the call, because such a modification would have clarify how a caller was charged for the call.

9.2 Regarding claim 45, Weber teaches a method for controlling a computer for controlling a plurality of telecommunications switches, comprising:

storing, on said computer, routes through which said call may be routed to a final termination, said selected route being one of said routes, said selected route being selected from among said routes responsively to a condition satisfiable by call-origin data defining a route of said call to an originating switch of said plurality of switches;

receiving at said computer said call-origin-data;

determining a selected route responsively to said condition and said call-origin-data;

said step of determining being effective to determine an override rate applicable to said call; and

transmitting said selected route to said telecommunications switch (column 5, lines 3-33; column 6, line 66 - column 8, line 56).

Weber fails to teach an override rate defining a rate applicable to the call.

However, Penzias discloses a rate database 16 with a database computer 17 in figure 1, and teaches applying one of the rates from the rate database 16 to the call (column 4, lines 20-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Weber reference with the teaching of Penzias, so that the modified system would have included a rate table to apply a rate to the call, because such a modification would have clarify how a caller was charged for the call.

9.4 Regarding claims 46-47, the modified Weber system teaches a billing system for bill a caller (column 8, lines 49-63).

10. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weber US 4,191,860 in view of Benyacar et al. US 5,003,584.

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Weber teaches a routing plan for routing a call, but fails to teach routing to an operator when ANI is not available.

However, Benyacar teaches a 900 number system, in that when caller number (ANI) is not available, the caller is connected to an operator for obtaining the ANI, and the operator also obtain the credit information from the caller (column 6, lines 4-7, 65-68).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Weber reference with the teaching of Benyacar, so that the caller information was missing, the caller would have been routed to an operator to obtain ANI information and to collect credit information, because such a modification would have enabled the modified system to identify a caller and to make sure that the caller would have been able to pay for a toll.

Allowable Subject Matter

11. Claims 23 and 24 are allowed.

12. Claims 21 and 22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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13. Claims 3, 7, 14, 18, 41 and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 28-31 would be allowable if a terminal disclaimer set forth in this Office action is filed to overcome the double patenting rejection.

Conclusion

14. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Simon Sing whose telephone number is 571-272-7545. The examiner can normally be reached on Monday - Thursday from 8:30 AM to 5:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached at 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

/Simon Sing/

Primary Examiner, Art Unit 2614